



US Army Corps
of Engineers

PUBLIC NOTICE

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197
until March 2, 2007
1450 Market Street
San Francisco, CA 94103-1398
after March 2, 2007

NUMBER: 400232

DATE: February 14, 2007

RESPONSE REQUIRED BY: March 14, 2007

Project Manager: Robert Kirby, 415 977-8446 robert.j.kirby@spd02.usace.army.mil

1. INTRODUCTION: The Oakland Yacht Club (through its agent Mr. Leonard Cardoza) has applied for a Department of the Army permit to reconfigure and perform maintenance dredging within the existing Oakland Yacht Club Marina at 1101 Pacific Marina Street, Alameda, California. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

2. PROJECT DESCRIPTION: As shown in the attached drawings, the applicant proposes to shift existing docks 1 through 7 approximately 40 feet to the west to allow for larger but fewer berths. This reconfiguration will eliminate eight (8) berths and decrease shading of bay waters by 864 square feet. This reconfiguration will involve removal of existing support piles and driving new piles in the new locations. The applicant proposes to use a sound attenuating cushion between the drop hammer and piles to maintain the acoustic effect below 180 decibels. The applicant has proposed a work window for the dock relocation of March 1 through September 30.

The applicant also proposes to remove approximately 1000 cubic yards (cys) of sediment from an 0.10-acre area within the marina. Dredging will restore the project area depth to -7 Mean Lower Low Water with an additional 2-foot overdredge allowance. The applicant proposes to remove the material using a clamshell bucket and to dispose of the material at the Alcatraz Disposal Site (SF-11). The applicant

estimates the duration of the dredge to be a maximum of three (3) days. The applicant has proposed a work window for the dredging of August 1 through November 30.

3. PURPOSE: The basic purpose of the project is to increase the size of vessel berths and improve navigability by dredging and disposing of sediment. The overall purpose of the project is to increase the size of vessel berths and improve navigability at the Oakland Yacht Club and to dispose of dredged material in open waters.

4. MARINA SITE CONDITIONS: The marina is located on the south side of the Oakland estuary adjacent to the easternmost reach of the federal channel represented as Grove Street Pier to Brooklyn Basin. This harbor was constructed in the 1960's on a parcel of property previously known as Pacific Marina. The Yacht Club occupies 31,250 square yards of subtidal area within the city of Alameda. The Yacht Club owns and maintains 220 berths varying from 28 to 44 feet arranged along 7 docks. The applicant indicates that the sediment in the Oakland estuary is fine silt and clay but can display wide-ranging grain size and contaminant levels. The applicant indicates that the shoaled material in the marina is 90% silts and clays. The applicant has stated that existing depths within the harbor range from 0 feet, Mean Lower Low Water (MLLW) to minus 12 feet.

5. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations, 40 C.F.R. Part 1500-1508, and Corps' Regulations, 33 C.F.R. Part 230 and 325, Appendix B. Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation of the Environmental Assessment will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 1455 Market Street San Francisco, CA 94103-1398 (this is the Corps' new address as of March 2, 2007).

Endangered Species Act of 1973 (ESA): Section 7 of the ESA requires formal consultation with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS) if a Corps permitted project may adversely affect any Federally listed threatened or endangered species or its designated critical habitat. Species and critical habitat (when present) identified as potentially impacted by the proposed marina dredging, dredge material disposal at SF-11 and dock reconfiguration include several Evolutionary Significant Units (ESU's) of Chinook salmon, steelhead trout and Coho salmon as well as the green sturgeon, California least tern and the California brown pelican.

On September 18, 1998 NMFS provided a programmatic biological opinion (BO) for the Long Term Management Strategy (LTMS) for dredging and placement of dredged material in the San Francisco Bay region. The NMFS BO included Chinook salmon (Sacramento River winter run, Central Valley Spring run, Central Valley fall/late fall run, Southern Oregon/California Coastal ESU's), steelhead trout (Central Valley, Central California Coast ESU's) and Coho salmon (Central California Coast ESU). On March 12, 1999 FWS provided a programmatic BO for the LTMS for the

California least tern and brown pelican. The NMFS and FWS biological opinions concluded that dredge and Bay Area disposal projects would not jeopardize the continued existence of these species or their critical habitats as long as the proponent adheres to the environmental work windows set forth in the LTMS Management Plan. As such, permitted dredging and disposal activities that conform to the Environmental Work Windows can be completed without Section 7 consultation for these species.

Federally-listed endangered Central Valley spring run and Sacramento River winter run **Chinook salmon** (*Oncorhynchus tshawytscha*) migrate through San Francisco Bay, as well as Suisun Bay and Honker Bay, to spawning areas in the upper Sacramento River during the late fall and early winter. Juveniles travel downstream through San Francisco Bay to the Pacific Ocean in the late fall as well.

On September 18, 1998 NMFS provided a BO for dredging/disposal work occurring between June 1 and November 30 concluding that dredging/disposal in accordance with the LTMS will not jeopardize the continued existence of this species or adversely modify its critical habitat. If a permit is issued for this proposed project it will contain a condition that dredging occur during the more restrictive window of August 1 through November 30 in any year.

Pile driving associated with the marina reconfiguration is proposed to occur March 1 through September 1. This reconfiguration will involve removal of existing piles and driving new piles in the new locations. The applicant proposes to use a sound attenuating cushion between the drop hammer and piles to maintain the acoustic effect below 180 decibels. The Corps has made the determination that pile removal/driving may affect, but is not likely to adversely affect Chinook salmon or its critical habitat. The Corps will seek concurrence with this determination from NMFS via separate correspondence pursuant to Section 7 of the ESA.

Central California populations of steelhead trout (*Oncorhynchus mykiss*) were classified as federally threatened in August 1997. It is possible that

steelhead migrating through the Bay to streams in the North Bay might enter the disposal site. On September 18, 1998 NMFS provided a BO for dredging/disposal work occurring between June 1 and November 30 concluding that dredging/disposal in accordance with the LTMS will not jeopardize the continued existence of this species or adversely modify its critical habitat. If a permit is issued for this proposed project it will contain a condition that dredging is allowed only from August 1 through November 30 in any year.

Pile driving associated with the marina reconfiguration is proposed to occur March 1 through September 1. This reconfiguration will involve removal of existing piles and driving new piles in the new pier locations. The applicant proposes to use a sound attenuating cushion between the drop hammer and piles to maintain the acoustic effect below 180 decibels. The Corps has made the determination that pile removal/driving may affect, but is not likely to adversely affect steelhead trout or its critical habitat. The Corps will seek concurrence with this determination from NMFS via separate correspondence.

Central California Coast ESU Coho salmon (Oncorhynchus kisutch). The dredging project is located within designated critical habitat for Central California Coast Coho salmon. NMFS has provided a BO for dredging/disposal work occurring between June 1 and November 30 concluding that dredging/disposal in accordance with the LTMS will not jeopardize the continued existence of this species or adversely modify its critical habitat. If a permit is issued for this proposed project it will contain a condition that dredging occur only from August 1 through November 30 in any year.

Pile driving associated with the marina reconfiguration is proposed to occur March 1 through September 1. This reconfiguration will involve removal of existing piles and driving new piles in the new locations. The applicant proposes to use a sound attenuating cushion between the drop hammer and piles to maintain the acoustic effect below 180 decibels. The Corps has made the determination that pile removal/driving may affect, but is not likely to

adversely affect Coho salmon or its critical habitat. The Corps will seek concurrence with this determination from NMFS via separate correspondence pursuant to Section 7 of the ESA.

On July 6, 2006 NMFS listed the **North American green sturgeon** (Acipenser medirostris) south of the Eel River in California as threatened under the Endangered Species Act. The Corps has made the determination that this project may affect, but is not likely to adversely affect the green sturgeon and will request concurrence with this determination pursuant to Section 7 of the ESA via separate correspondence. If a permit is issued for this proposed project it will contain any special conditions resulting from that consultation.

Additionally, the Corps has concerns regarding potential impacts to **Pacific herring** (Clupea pallasii) during its annual spawning season. The proposed maintenance dredging will occur within the traditional Pacific herring spawning grounds. As a result, the Corps will condition the permit (if issued) so that dredging will occur no earlier than August 1 and no later than November 30 in any year.

Pile driving associated with the marina reconfiguration is proposed to occur March 1 through September 1. This reconfiguration will involve removal of existing piles and driving new piles in the new pier locations. The applicant proposes to use a sound attenuating cushion between the drop hammer and piles to maintain the acoustic effect below 180 decibels. The Corps believes that these steps will minimize the adverse impacts on Pacific Herring.

California least tern (Sterna antillarum brownii) was classified as federally endangered in 1970, and therefore receives protection under the Endangered Species Act. The terns breed in the eastern part of the San Francisco Bay, from the Berkeley Marina to San Lorenzo Creek within one mile of the coastline. The dredging project is located within the breeding area of the California Least Tern. FWS has provided a BO for dredging/disposal work occurring between August 1 and December 31 concluding that dredging/disposal in accordance with the LTMS will not jeopardize the continued existence of this species

if conducted in this window. The permit will contain a condition that dredging is allowed only from August 1 through November 30.

Pile driving associated with the marina reconfiguration is proposed to occur March 1 through September 1. This reconfiguration will involve removal of existing piles and driving new piles in the new pier locations. The Corps has made the determination that the project may affect, but is not likely to adversely affect the least tern. The Corps will seek concurrence with this determination from the FWS via separate correspondence.

The **California Brown Pelican** (*Pelecanus occidentalis californicus*) is listed as endangered under the ESA. Habitat for the brown pelican may be present in the project area but dredging, dredging disposal or marina reconfiguration activities will not take place near roosting or nesting sites of the brown pelican. The Corps has therefore determined that this project will have no effect on the brown pelican.

Magnuson-Stevens Fisheries Conservation and Management Act: This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. NMFS has designated San Francisco Bay in its entirety as EFH.

Pile driving, dredging and dredge disposal may impact benthic communities, create a plume of turbidity within the water column and decrease dissolved oxygen within the water column. It is also possible for the dredging activity to resuspend contaminants in the bottom sediment.

The dock reconfiguration and dredge could impact approximately 0.10 acres of EFH utilized by various species of coastal pelagics, Pacific ground fish and salmonids. The applicant has stated that the marina has been dredged in the past, is disturbed and work there will result in no new impacts to EFH. The applicant has stated that the dredge site possesses a history of shoreside industrial operations, vessel movement and recreational boating facilities all occupying a densely developed urban area. The applicant has stated that fish species utilizing the

area would be able to find ample and suitable foraging areas in adjacent waters during the construction and that as the benthic community recovers after the dredge fish species may return to their normal activities. The applicant has stated that the dredge will occur over a maximum of three (3) days. The applicant proposes to use a sound attenuating cushion between the drop hammer and piles to maintain the acoustic effect below 180 decibels to minimize impacts on fish in the area. Eelgrass is not expected to be present in this existing marina and not expected to establish in this area.

At the **dredge disposal site (SF-11)**, approximately 0.11 square miles (a circle with a 1000-foot radius) of bay bottom will be potentially affected by all disposal activities (cumulative impact from disposal from all LTMS approved dredgers). The applicant has stated that the quantity of spoil material from the OYC dredge is small and that the cumulative effect of all disposal will total 0.11 square miles or 0.08% of the available habitat of Central San Francisco Bay. The applicant has stated that contaminants resuspended due to this activity will not be above background levels but that dissolved reduced compounds (ammonia and sulfides) may create a plume exceeding background levels but will not be sufficient to negatively impact EFH.

Prior to the dredge, the Dredge Material Management Office (DMMO) will evaluate the sediments to be dredged for disposal or reuse suitability. The DMMO includes representatives from the U.S. Environmental Protection Agency, San Francisco Bay Conservation and Development Commission (BCDC), San Francisco Bay Regional Water Quality Control Board (RWQCB), and the U.S. Army Corps of Engineers (Corps). The DMMO is tasked with approving sampling and analysis plans in conformity with testing manuals, reviewing the test results and reaching consensus regarding a suitable disposition for the material.

Our initial determination is that the work proposed in this application would not have a substantial adverse impact on EFH or federally managed fisheries in California waters. Our final determination relative to

project impacts and the need for mitigation measures is subject to review by and coordination with NMFS.

Clean Water Act of 1972 (CWA):

a. Water Quality: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State water quality certification before a Corps permit may be issued. The applicant has provided the Corps with evidence that a valid request has been submitted to the San Francisco Bay Regional Water Quality Control Board for State water quality certification. No Corps permit will be granted until the applicant obtains the required water quality certification. The Corps may assume a waiver of water quality certification if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issues that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612 by the close of the comment period of this Public Notice.

b. Alternatives: Evaluation of this proposed activity's impact includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section 1344(b)). In October 2004 the LTMS agencies completed and published the Small Dredger Programmatic Alternatives Analysis (SDPAA). Under the SDPAA, projects that have access to existing upland or beneficial re-use placement sites will continue to use them while other small dredger projects will continue to have access to the unconfined in-Bay disposal sites. Overall, approximately 250,000 cubic yards per year are disposed in-Bay from these small dredger projects. The Oakland Yacht Club is a facility approved to use the procedures outlined in the LTMS and has applied to do so.

Coastal Zone Management Act of 1972 (CZMA): Section 307 of the Coastal Zone Management Act requires the applicant to certify that the proposed project will comply with the State's Coastal Zone Management Program, if applicable. No Corps permit will be issued until the State has concurred with the applicant's certification. Coastal development issues should be directed to the San Francisco Bay Conservation and Development Commission (BCDC), 50 California Street, Suite 2600, San Francisco, California 94111.

National Historic Preservation Act of 1966 (NHPA): Based on a review of survey data on file with various City, State and Federal agencies, no historic or archeological resources are known to occur in the project vicinity. If unrecorded resources are discovered during construction of the project, operations will be suspended until the Corps completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

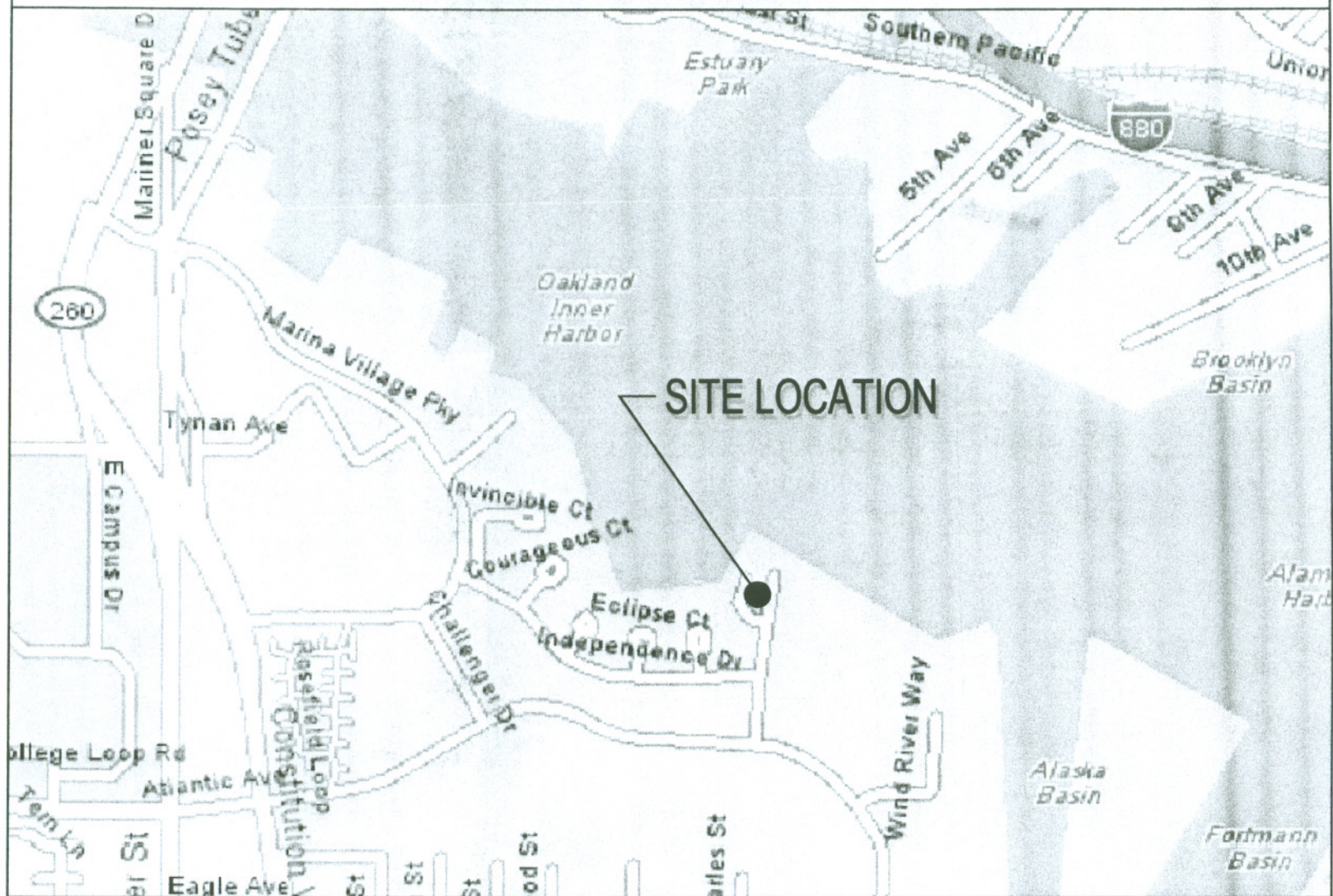
6. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

7. CONSIDERATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials,

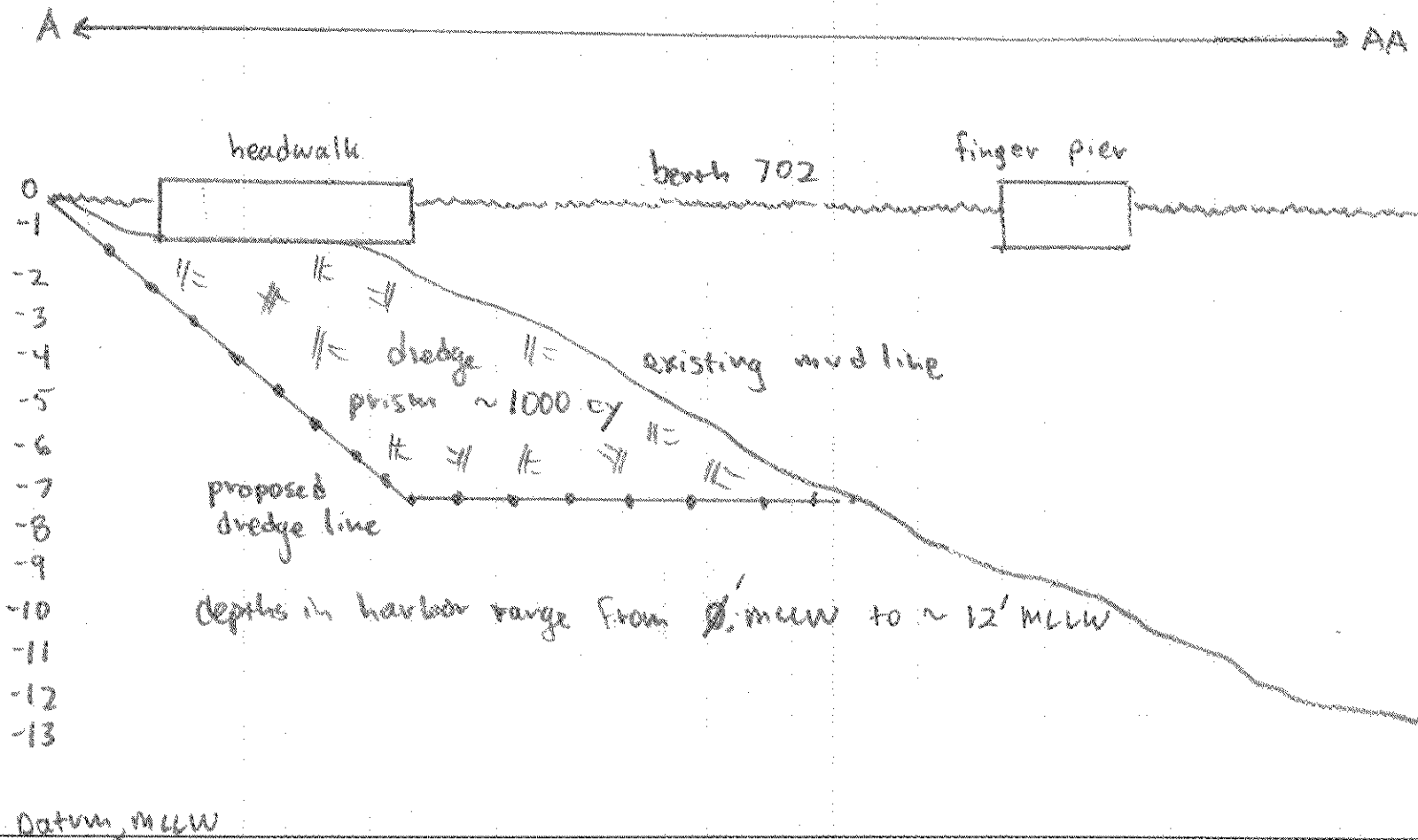
Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the proposed activity.

8. SUBMISSION OF COMMENTS: Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to Mr. Robert Kirby at the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street 8th Floor (until March 2, 2007) and 1455 Market Street San Francisco, CA 94103-1398 (after March 2, 2007). It is the Corps' policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Public Notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose name and address are indicated in the first paragraph of this Public Notice or by contacting Mr. Robert Kirby of our office at telephone number (415) 977-8446 or by E-mail at: Robert.j.Kirby@spd02.usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.

VICINITY MAP



CLIENT Oakland Yacht Club	JOB NUMBER
SUBJECT Dredging - Harbor Reconfiguration	DRAWING NUMBER X Section A-AA
BASED ON	DATE 2/6/07
CHECKED BY	APPROVED BY
BY	



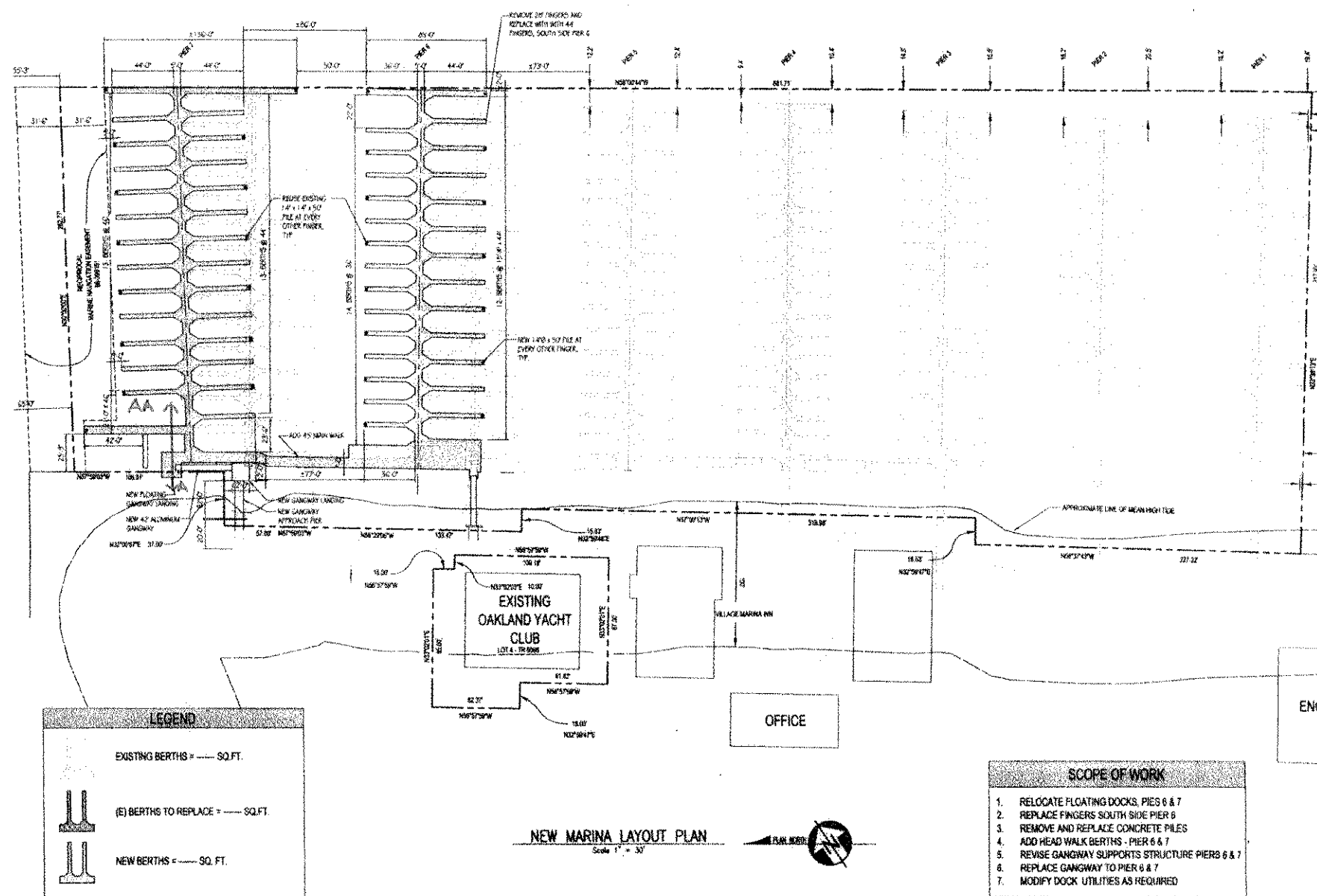


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OAKLAND YACHT CLUB

OAKLAND YACHT CLUB
ST. ALBERTA, CALIFORNIA



LEGEND

EXISTING BERTHS = — SQ. FT.

(E) BERTHS TO REPLACE = — SQ. FT.

NEW BERTHS = — SQ. FT.

- SCOPE OF WORK**
1. RELOCATE FLOATING DOCKS, PIER 6 & 7
 2. REPLACE FINGERS SOUTH SIDE PIER 6
 3. REMOVE AND REPLACE CONCRETE PILES
 4. ADD HEAD WALK BERTHS - PIER 6 & 7
 5. REVISE GANGWAY SUPPORTS STRUCTURE PIER 6 & 7
 6. REPLACE GANGWAY TO PIER 6 & 7
 7. MODIFY DOCK UTILITIES AS REQUIRED

NEW MARINA
LAYOUT PLAN

C-1

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